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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: A7145

Phillip MERRICK, et al.

Appln. No.: 09/274,979

Group Art Unit: 2126

Confirmation No.: 9188

Examiner: St. John Courtenay III

Filed: March 23, 1999

For: XML Remote Procedure Call (XML-RPC)

**PETITION UNDER 37 CFR 1.181 AND MPEP 711.03(c)(I) FOR
WITHDRAWAL OF HOLDING OF ABANDONMENT****MAIL STOP PETITION**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

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MAR 23 2004

Technology Center 2100

Sir:

The undersigned, on behalf of Applicants, requests the Commissioner to withdraw the holding of abandonment of the above identified application for the following reasons. The application was abandoned for allegedly not responding to the Office Action dated August 5, 2003. However, an *Amendment* was, in fact, sent to the PTO via facsimile on January 5, 2004 (within the required time), but has apparently been misplaced by the PTO. A copy of the Amendment is attached hereto¹, along with a copy of the "Auto Reply Facsimile Transmission" verifying transmission.

¹ During facsimile transmission, it was noticed that the first page was erroneously titled "Request for Reconsideration," so a replacement first page properly titled "Amendment" as added to the transmission, thus resulting in the page count of 34 for the transmission.


PETITION FOR WITHDRAWAL OF HOLDING
OF ABANDONMENT
USSN 09/274,979

Submitted herewith are the following documents:

1. Request for Reconsideration filed January 5, 2004 w/Auto-Reply Facsimile Transmission receipt verifying transmission.
2. Notice of Abandonment.

From the above, it is clear that this firm, representing Applicants, duly responded to the Office Action of August 5, 2003, in a timely manner and that the Patent Office received the response. Accordingly, it is respectfully submitted that the application should not have been abandoned and the Commissioner is respectfully requested to withdraw the holding of abandonment.

Respectfully submitted,



David J. Cushing
Registration No. 28,703

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: March 19, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/274,979	03/23/1999	PHILLIP MERRICK	A007145	9188

23373 7590 03/10/2004

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

DOCKETED

MAR 12 2004

EXAMINER

COURTENAY III, ST JOHN

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 03/10/2004

26



Please find below and/or attached an Office communication concerning this application or proceeding.

MAR 19 2004

Notice of Abandonment

Application No.

09/274,979

Examiner

St. John Courtenay III

Applicant(s)

MERRICK ET AL.

Art Unit

2126

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 05 August 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:



St. John Courtenay III
Primary Examiner
Art Unit: 2126

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 202 293 7860

Fax Information

Date Received:

1/5/2004 11:46:25 PM [Eastern Standard Time]

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34 (including cover page)

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Cover
Page

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JAN-05-2004 23:54

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MAR 23 2004

Technology Center 2100

FAX

Date January 5, 2004
To Examiner Courtenay
Of Group Art Unit 2126
Fax 703-872-8306
From David J. Cushing
Subject Amendment for Appl. No. 09/274,979
Our Ref A7145
Pages 33 (including cover sheet)

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I hereby declare that this Amendment is being transmitted to the U.S. Patent and Trademark Office on January 5, 2004.

David J. Cushing

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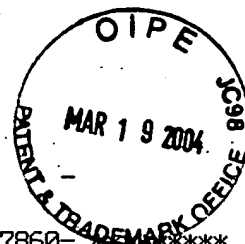
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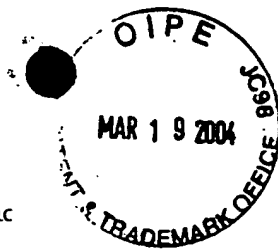
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Date January 5, 2004
To Examiner Courtenay
Of Group Art Unit 2126
Fax 703-872-9306
From David J. Cushing
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David J. Cushing